

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

gcp/fc

Mailed: August 10, 2007

Opposition No. 91166420

Campagnolo S.R.L.

v.

Burkina Wear, Inc.

George C. Pologeorgis, Interlocutory Attorney:

This case now comes up on applicant's motion (filed May 25, 2007) to reopen proceedings after suspension pending the final determination of a civil action between the parties in the United States District Court for the Eastern District of Pennsylvania. The motion has been fully briefed.

Applicant has submitted a copy of the May 1, 2007 order of the United States District Court for the Eastern District of Pennsylvania dismissing civil action 06-4856 on the grounds of lack of personal jurisdiction and improper venue. In light of the district court's dismissal on grounds not concerning the merits of the case, applicant requests that this Board proceeding be resumed so that the Board may now consider applicant's pending motions to dismiss, for sanctions, and for judgment on the pleadings.

In its response to applicant's motion, opposer advised the Board that on May 7, 2007, applicant filed a complaint

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for declaratory judgment in the United States District Court for the Southern District of New York, against opposer, and on May 24, 2007, applicant filed an amended complaint on the same matter.¹ Opposer attached copies of the complaints as exhibits to its brief. Opposer asserts that further suspension of the instant Board case is appropriate and warranted because (1) the parties to the civil suit are the same as this opposition, (2) the issues in the civil suit are the same as or similar to those in this opposition, and (3) suspending this opposition will be less burdensome on the parties, the District Court and the Board.

Applicant claims that opposer has engaged in delay tactics as a strategy in this proceeding, and is seeking to delay and avoid decision on potentially dispositive motions filed earlier with the Board.

It is the policy of the Board to suspend proceedings when the parties are involved in a civil action that may be dispositive of or have a bearing on the Board case. See Trademark Rule 2.117(a).

A review of the complaint in the most recent civil case between the parties to this proceeding, as filed and as amended on May 24, 2007, indicates that a decision by the

¹ The civil action is styled *Burkina Wear, Inc. v. Campagnolo, S.R.L.*, Civ. No. 07 CV 3610 (HP) (RWS), United States District Court for the Southern District of New York, filed on or about May 7, 2007.

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district court could be dispositive of, or have a bearing on, the issues in this opposition proceeding.

Accordingly, applicant's motion to reopen these proceedings is denied, and proceedings herein remain suspended pending final disposition of the civil action between the parties in the United States District Court for the Southern District of New York.

Within twenty days after the final determination of the civil action, the interested party should notify the Board so that this case may be called up for appropriate action. During the suspension period the Board should be notified of any address changes for the parties or their attorneys.

Additionally, the Board notes applicant's motion, filed concurrently with its brief in response to the first motion to suspend (filed November 3, 2006), to dismiss the opposition, sanction opposer and enter judgment in favor of applicant. These motions will be decided upon the resumption of these proceedings, if necessary.